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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,245	09/18/2003	Masahiko Takenaka	14470.0009US01	6966
23552	7590	06/07/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				AVERY, BRIDGET D
ART UNIT		PAPER NUMBER		
		3618		

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/665,245	TAKENAKA ET AL.
	Examiner Bridget Avery	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/05/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. In claim 1, applicant's recitation of "approximately equal to or exceeding 90 degrees" is indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawano (US Patent 4,700,799). Kawano teaches a structure similar to applicant's including:
  - A longitudinal V-type engine (4) mounted below a low floor (5d)
  - A diamond-type body frame (7-9, 24-28, 42) including a head pipe (24)
  - The engine (4) including a front cylinder (4a) and a rear cylinder (4b)

- The banking angle between the front cylinder (4a) and the rear cylinder (4b) is approximately 90 degrees
- The engine (4) is arranged with the bisector of the banking angle directed toward the head pipe (24)
- The front cylinder (4a) extends in front of a pair of right and left down frames (41)
- The rear cylinder (4b) is between the right and left upper frames (42)
- A fuel tank (21)
- An air intake system (note teaching of an air cleaner and an air cleaner case 19, as described in column 4, lines 66-68 and column 5, lines 1-3)
- Means for lowering the engine (4) below the low floor (5d), as shown in Figure 3
- The engine (4) adds strength to the body frame (7-9, 24-28, 42)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawano ('799) in view of Shinozaki (US Patent 4,440,255).

Kawano teaches the features described above.

Kawano lacks the teaching of an air intake system arranged between a front and a rear cylinder and a fuel tank arranged above the intake system.

- Shinozaki teaches a two-wheeled vehicle including an air intake system arranged in a fairing member; and a fuel tank arranged above the intake system

Based on the teachings of Shinozaki, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the structure of Kawano to include an air intake system arranged in a fairing member to be between engine cylinder and move the fuel tank to be arranged above the intake system to effectively direct ram air to the engine.

5. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuboi (US Patent 4,706,774) in view of Kawano ('799).

Tsuboi teaches a structure similar to applicant's including:

- A longitudinal V-type engine (6)
- A diamond-type body frame (3, 4) including a head pipe (2)
- The engine (6) including a front cylinder (62) and a rear cylinder (63)
- The banking angle between the front cylinder (62) and the rear cylinder (63) is approximately 90 degrees
- The engine (6) is arranged with the bisector of the banking angle directed toward the head pipe (2)

- The front cylinder (62) extends in front of a pair of right and left down frames (4)
- The rear cylinder (63) is between the right and left upper frames (3)
- The engine (6) adds strength to the frame (3, 4)
- A crankcase (61)
- The right and left down frames (4) are coupled at (41) to the front of the crankcase (61)

Tsuboi lacks the teaching of a low floor.

Kawano teaches a low floor (5d)

Based on the teachings of Kawano, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a low floor to the structure of Tsuboi to effectively secure the strength and rigidity of the engine on the vehicle.

### ***Allowable Subject Matter***

6. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hori et al. shows a power unit for vehicle.

Atsuumi et al. shows an exhaust system for a V-type engine.

Yamaguchi shows a motorcycle.

Miyakoshi et al. shows a multi-cylinder engine mounted on motorcycle.

Tsuboi shows a power unit apparatus for motorcycles.

Yamaguchi shows a motorcycle radiator.

Yamaguchi shows an air cleaner arrangement.

Takagi et al. shows an internal combustion engine of motorcycle.

Tanaka et al. shows a motorcycle engine.

Tsuboi shows a power transmission unit for a motorcycle.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.



May 31, 2005



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